IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3811 OF 2005
IN
CRIMINAL WRIT PETITION NO.2473 OF 2004

Baban Rama Pardhi ...Applicant
Vs.
The State of Maharashtra &
Anr. ...Respondents

Mrs. Smita R. Kadu-Gawai for the Applicant.
Ms M.M. Deshmukh, A.P.P. for the Respondents.

CORAM : A.S.OKA, J.
DATED : JULY 26, 2005.

P.C.:

1. The grievance made in this Application which is filed in a disposed of the Writ Petition is regarding non-compliance with order passed by this Court on 22nd Februrary, 2005 in the Writ Petition. The order impugned in the Writ Petition filed by the Applicant was dated 7th September, 2004 by which the Application made by the Applicant for grant of furlough leave under the Prisons(Bombay Furlough Leave and Parole) Rules, 1959 was rejected on the ground that the person named by the Applicant was not ready to offer himself as a surety and there was adverse police report.

2. While allowing the Writ Petition filed by the Applicant, this Court relying on the decision reported in 2003 Vol.105(3) Bombay Law Reported, 726 (Dipak S/o. Hari Kivkalwar Vs. State of Maharashtra & Anr.) held that the authority can dispense with requirement of furnishing surety by requiring the Applicant to furnish cash surety. This Court directed that the amount lying in the account of the Applicant to the

extent of a sum of Rs.5,000/- can be offered as cash surety by applying the ratio of the case of Dipak Kivkalwar (Supra). In so far as second ground of rejection is concerned, this Court observed that there was no impediment to release the Applicant on furlough leave by imposing strict conditions. This Court therefore, directed the concerned authority to allow the Application for furlough leave preferred by the Applicant by imposing appropriate conditions. By communication dated 3rd June, 2005 the competent authority rejected the Application of the Applicant on the ground that surety is not offered. It is obvious that the said order was in breach of the direction of this Court issued in the Writ Petition.

3. Today, the learned A.P.P. has handed over a copy of wireless message which records that Application for furlough leave filed by the Applicant has been allowed and the Applicant is not released on leave as he has not furnished the bonds.

4. The learned Counsel for the Petitioner submitted that the Applicant is ready and willing to execute a personal bond as contemplated by Rule 10 of the said Rules of 1959.

5. In view of this position, Application is disposed of by directing the concerned authority to enlarge the Applicant on furlough leave in accordance

with order dated 22nd February, 2005 passed by this Court subject to Applicant executing a personal bond as required by Rule 10 of the said Rules of 1959.

. Parties to act upon an authenticated copy of this order.

JUDGE